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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WOO, STELLA L

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

12/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/724,330	Applicant(s) KATZ, RONALD A.	
	Examiner Stella L. Woo	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-29, 31-45 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-29, 31-45, 47-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17-48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

3. Claim 17 recites “storing data associated with an active buyer” (line 10). However, the specification fails to describe an “active” buyer.

Claim 17 recites “selectively processing the commercial transaction data to fulfill a request by first identifying select data including dynamic video and text data relating to one or more vendors and then providing the dynamic video and text to said activate buyer responsive to said commercial transaction data and in some instances, to fulfill a request, selectively routing the active buyer based on the request data via multiple commercial transaction control systems to communicate with one or more widely distributed vendors with capabilities to fulfill the request” (lines 13-19). However, there is no description of such selective routing of an active buyer based on the request data to communicate with one or more vendors as taking place in some instances after the step of providing identified video and text to the active buyer. According the applicant’s

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specification, after a video presentation is provided to a responding buyer, an interested buyer may directly contact the vendor for further communication (paragraph 136). The buyer is not routed based the request data. A buyer may place a call to a vendor by actuating an autodialer displayed on the buyer's video terminal or by manually dialing the displayed telephone number (paragraph 49). The buyer is not selectively routed based on the previously entered request data.

Claim 33 similarly recites the above subject matter, not supported by the specification.

Should the new matter be removed from claims 17 and 33, the following rejections would apply.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-29, 33-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,450,123) in view of Grady et al. (US 5,712,906, hereinafter "Grady").

Smith discloses a method for selectively accomplishing electronic communication between members of plural groups, including at least one potential buyer (caller at video station 1) and at least one vendor (agent at station 2), at remote sites (stations are

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coupled via PSTN 3), via commercial transaction communication control system (see Figures 1 and 2), comprising the steps of:

accessing said system (system can be accessed via computer 5; Figure 1);

receiving and storing dynamic video data from a vendor (vendor-supplied video images are stored in a video source and database 6, and a selected video image is provided to the caller; col. 2, lines 65-68; col. 5, line 1 - col. 6, line 14);

storing data associated with an active buyer including buyer identification data and commercial transaction data (service parameters stored in processor 9, 11 or 22 include a caller's telephone number (ANI) and account type; col. 4, lines 2-7; col. 5, lines 1-5, 19-22); and

selectively processing the commercial transaction data by first identifying select data and then providing the dynamic video and text to said active buyer (based on the caller's account type, an appropriate video message from video source 6 is provided to the caller; col. 5, lines 17-37; a video message can include text, col. 6, lines 45-49).

Smith differs from claims 17 and 33 in that it does not specify text communications between the vendor and buyer. However, Grady, from the same field of endeavor, teaches the desirability of providing text communications (email) between terminals (col. 11, lines 46-47) in addition to video and multimedia communication. It would have been obvious to an artisan of ordinary skill to provide for text communications, as taught by Grady, between the caller and agent stations of Smith in order to provide an additional means of communication.

Regarding claims 18-19, 22-24, Smith provides for a camera at each videophone station to provide direct, point-to-point video communication (col. 4, lines 24-28).

Regarding claims 20, 25, in Smith, the video image can include a dynamic graph associated with the vendor's company (col. 6, lines 44-49).

Regarding claims 21, 33-41, Grady teaches the multi-media presentation as including still images and plain text (col. 1, lines 35-38; col. 5, lines 8-9).

Regarding claims 26, 42, Smith provides for real-time audio communication via videophone stations (col. 3, lines 5-19).

Regarding claim 27-29, 43-45, Smith provides for the caller entering a service code or real-time input to select a desired video source signal (col. 4, lines 45-48, 62-66; col. 5, lines 7-22).

6. Claims 31-32 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Grady, as applied to claims 27 and 43 above, and further in view of Brown et al. (US 4,972,318, hereinafter "Brown").

Regarding claims 31-32 and 47-48, Brown teaches an order system being combined with inventory control (Figures 2 and 6(d)) and provides notification to the buyer when the desired product is out-of-stock (col. 9, lines 39-42) such that it would have been obvious to an artisan of ordinary skill to incorporate such inventory control and notification, as taught by Brown, within the combination of Smith and Grady so that a buyer can be informed as to whether or not a desired product is in stock.

Response to Arguments

7. Applicant's arguments filed August 12, 2009 have been fully considered but they are not persuasive.

Regarding the rejection under 35 USC 112, first paragraph, the amended claims recite subject matter not supported by the specification as described in the rejection above.

Regarding the rejection under 35 USC 103(a), Applicant submits that "Smith teaches video and audio from separate sources, which is distinct from Applicant's system." However, this argument is irrelevant to the claimed subject matter.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (571) 272-

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7512. The examiner can normally be reached on Monday-Friday, 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stella L. Woo/
Primary Examiner, Art Unit 2614